

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CRIMINAL NO. 5:13-CR-00096-RLV-DSC**

THIS MATTER is before the Court on the Defendant's pro se letter requesting new counsel (document # 143) filed November 21, 2014. The Court held a hearing in this matter on December 2, 2014. Appointed counsel J. Clark Fischer appeared with Defendant at the hearing.

During the hearing, Defendant expressed frustration about the length of time it was taking for his presentence report to be prepared. He also stated that his “people” have been calling Mr. Fischer and their calls are not being returned. Mr. Fischer represented that he has not received any such calls on Defendant’s behalf. The Government addressed the fact that counsel obtained a favorable plea agreement for the Defendant. The Court advised Defendant that delays in the preparation of a presentence report are not unique to his case. The Court has undertaken measures to address this problem generally. This is not a problem attributable to defense counsel.

“Because the right to choose counsel is not absolute, it necessarily follows that a defendant does not have an absolute right to substitution of counsel. As a general rule, a

defendant must show good cause in requesting a new appointed lawyer.” United States v. Mullen, 32 F.3d 891, 895 (4th Cir. 1994). Here, Defendant’s complaints do not demonstrate good cause for the Court to appoint new counsel. Based upon the foregoing, the Court finds no basis to remove Mr. Fischer as appointed counsel. Defendant’s pro se request for new counsel is DENIED.

The Clerk is directed to send copies of this Order to counsel for the parties, including but not limited to moving counsel; and to the Honorable Richard L. Voorhees.

SO ORDERED.

Signed: December 2, 2014



David S. Cayer
United States Magistrate Judge
